

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LoLISA R. MITCHELL,

Plaintiff,

CIVIL ACTION NO. 05-CV-71609-DT

vs.

DISTRICT JUDGE VICTORIA A. ROBERTS

COMMISSIONER OF
SOCIAL SECURITY,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

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REPORT AND RECOMMENDATION

RECOMMENDATION: This Court recommends that Plaintiff's Complaint be DISMISSED for failure to prosecute.

PROCEDURAL HISTORY

This is an action for judicial review of the final decision of the Commissioner of Social Security that the Plaintiff was not entitled to benefits under the Social Security Act, 42 U.S.C. §§ 416(i), 1381a.

Plaintiff LoLisa R. Mitchell filed a complaint challenging the Commissioner's final decision on April 25, 2005. Plaintiff has filed no other pleadings or papers with the Court since that time. The Court issued its first scheduling order on June 3, 2005. Plaintiff's Motion for Summary Judgment was due on or before July 22, 2005. Plaintiff did not file a timely motion. The scheduling order was amended several times at Defendant's request, most recently on September 29, 2005. Defendant filed its Motion for Summary Judgment on October 19, 2005. Plaintiff's Response to Defendant's Motion was due on or before October 31, 2005.

On February 16, 2006 the Court issued an Order for Plaintiff to Show Cause for her failure to comply with the Court's Scheduling Order or file a motion for Summary Judgment. Plaintiff's response was due on or before March 16, 2006. Plaintiff has not filed a response.

The Court therefore recommends that Plaintiff's Complaint be **DISMISSED** for failure to prosecute. Plaintiff has taken no action in this case for more than a year.

Either party to this action may object to and seek review of this Report and Recommendation, but must act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing objections which raise some issues but fail to raise others with specificity will not preserve all objections that party might have to this Report and Recommendation. *Willis v. Secretary*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Rule 72.1(d)(2) of the *Local Rules of the United States District Court for the Eastern District of Michigan*, a copy of any objection must be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than five (5) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

Dated: May 12, 2006

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this Report and Recommendation was served upon LoLisa Mitchell and Counsel of Record on this date.

Dated: May 12, 2006

s/ Lisa C. Bartlett
Courtroom Deputy